

[Entered 12-15-08]

IN THE IOWA DISTRICT COURT IN AND FOR POLK COUNTY

STATE OF IOWA, ex rel., THOMAS J.
MILLER, ATTORNEY GENERAL OF IOWA
(99AG23112),

Plaintiff,

vs.

ROGERS AUTOMATED ENTRANCES, INC.,

Defendant.

LAW NO.

CV 7490

CONSENT ORDER,
JUDGMENT AND DECREE

FILED
12-15-08
10:30 AM
CLERK OF DISTRICT COURT
POLK COUNTY, IOWA

NOW on this 15th day of December, 2008, the Court is presented with the plaintiff's petition seeking civil penalties and injunctive relief pursuant to Iowa Code sections 480.6 and 480.7. The Court having read the petition and being otherwise advised by the parties FINDS:

1. The Court has jurisdiction of the parties and the subject matter of this action and the parties consent to entry of this Consent Order, Judgment and Decree.

2. Defendant Rogers Automated Entrances, Inc. admits, for purposes of settlement and for this action only, the violations alleged in paragraph twenty-nine (29) of the Petition at Law.

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:


1. Defendant Rogers Automated Entrances, Inc. is assessed a civil penalty of Five Thousand and no/100 Dollars (\$5,000.00) for the violations admitted herein. The defendant shall pay the civil penalty within ten (10) days of the entry of this Consent Order, Judgment and Decree. The defendant shall also pay interest pursuant to Iowa Code section 535.3(1) on any

unpaid balance. Payments of the civil penalty and interest shall be made payable to the State of Iowa and submitted to plaintiff's attorney, David R. Sheridan, at the address noted below.

2. Defendant Rogers Automated Entrances, Inc., its officers, employees, agents, successors and all other persons, corporations and other entities acting in concert or participating with the defendant who have actual or constructive notice of this injunction, are permanently enjoined from commencing any excavation in the State of Iowa, except during an emergency pursuant to Iowa Code section 480.4(6), without first contacting the statewide notification center (1-800-292-8989 or 811) at least 48 hours prior to the planned excavation, excluding weekends and legal holidays, as required by Iowa Code sections 480.1A and 480.4(1)(a), and providing the information required by Iowa Code sections 480.4(1)(b)(1)-(8) and 480.4(1)(c)(1)-(8); and the defendant is further enjoined from commencing any excavation except under the schedule and pursuant to the terms of each such notification.

3. The Court retains jurisdiction of this matter to insure compliance with the terms of this Order.

4. The costs of this action are taxed to the defendant in the amount of \$ 100.00
(Clerk to enter).


JUDGE, Fifth Judicial District of Iowa
B-R BINK

Approved as to form:

THOMAS J. MILLER
Attorney General of Iowa

ROGERS AUTOMATED ENTRANCES, INC.


DAVID R. SHERIDAN, AT0007176

Assistant Attorney General
Lucas State Office Building
321 E. 12th St., Ground Floor
Des Moines, IA 50319
Phone: (515) 281-5351
Fax: (515) 242-6072
E-mail: dsherid@ag.state.ia.us
ATTORNEYS FOR PLAINTIFF


KENNETH ROGERS, President

1305 - 1st Avenue North
Altoona, IA 50009
Phone: (515) 967-1190
Fax: (515) 967-1053
DEFENDANT